

1 UNITED STATES BANKRUPTCY COURT

2 EASTERN DISTRICT OF NEW YORK

3 Case No. 8-16-75545-reg

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5 In the Matter of:

6

7 DOWLING COLLEGE,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 290 Federal Plaza

14 Central Islip, New York 11722

15

16 April 1, 2019

17 2:31 PM

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21 B E F O R E :

22 HON ROBERT E. GROSSMAN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: UNKNOWN

1 HEARING re [678] Final Application for Compensation by
2 SilvermanAcampora LLP as Counsel to the Official
3 Committee of Unsecured Creditors for Fees of \$159,650.00
4 Expenses: \$346.41 by Ronald J Friedman on behalf of Official
5 Committee Of Unsecured Creditors.

6
7 HEARING re [695] Final Application for Compensation by
8 Farrell Fritz, P.C. as Special Counsel for Fees of
9 \$29,403.00 Expenses: \$621.35 by Patrick T Collins on behalf
10 of Farrell Fritz, P.C.

11
12 HEARING re [679] Final Application for Compensation by
13 Klestadt Winters Jureller Southard & Stevens, LLP as Counsel
14 to the Debtor for Fees of \$2,641,925.10 Expenses: \$29,102.63
15 by Lauren Catherine Kiss on behalf of Dowling College.

16
17 HEARING re [680] Final Application for Compensation by
18 Ingerman Smith, LLP as Special Counsel to the Debtor for
19 Fees of \$58,890.00 Expenses: \$2,084.11 by Lauren Catherine
20 Kiss on behalf of Dowling College.

21
22 HEARING re [681] Final Application for Compensation by Baker
23 Tilly Virchow Krause, LLP as Tax Accountants to the Debtor
24 and Debtor in Possession for Fees of \$30,115.75 Expenses:
25 \$0.00 by Lauren Catherine Kiss on behalf of Dowling College.

1 HEARING re [682] Final Application for Compensation by Baker
2 Tilly Virchow Krause, LLP as Consultants to the Debtor and
3 Debtor in Possession for Fees of \$8,234.00 Expenses:
4 \$1,131.43 by Lauren Catherine Kiss on behalf of Dowling
5 College.

6
7 HEARING re [688] Final Application for Compensation by FPM
8 Group, LTD. as Consultants to the Debtor and Debtor in
9 Possession for Fees of \$70,069.68 Expenses: \$20,529.44 by
10 Lauren Catherine Kiss on behalf of Dowling College.

11
12 HEARING re [689] Final Application for Compensation by
13 Receivable Collection Services, LLC as Collection
14 Agency to the Debtor and Debtor in Possession for Fees of
15 \$30,318.48 Expenses: \$0.00 by Lauren Catherine Kiss on
16 behalf of Dowling College.

17
18 HEARING re [690] Final Application for Compensation by CBRE,
19 Inc. as Broker for the Debtor for Fees of \$145,000.00
20 Expenses: \$0.00 by Lauren Catherine Kiss on behalf of
21 Dowling College.

1 HEARING re [691] Final Application for Compensation by
2 Douglas Elliman Real Estate as Broker for the Debtor
3 for Fees of \$335,640.00 Expenses: \$0.00 by Lauren Catherine
4 Kiss on behalf of Dowling College.

5
6 HEARING re [692] Final Application for Compensation by A&G
7 Realty Partners, LLC and Madison Hawk Partners, LLC as Real
8 Estate Advisor to the Debtor for Fees of \$1,239,000.00
9 Expenses: \$143,459.97 by Lauren Catherine Kiss on behalf of
10 Dowling College.

11
12 HEARING re [693] Final Application for Compensation by Epiq
13 Class Action and Claims Solutions, Inc. as Administrative
14 Advisor to the Debtor and Debtor in Possession for Fees of
15 \$26,268.40 Expenses: \$0.00. by Lauren Catherine Kiss on
16 behalf of Dowling College.

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25 Transcribed by: Sonya Ledanski Hyde

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P R O C E E D I N G S

THE COURT: Good afternoon. Please be seated.

CLERK: Matter number 44 through 55, Dowling College.

MR. SOUTHARD: Good afternoon, Your Honor, Sean Southard of Klestadt Winters Jureller Southard & Stevens on behalf of Dowling College. With me today is my colleague Lauren Kiss.

MR. YANG: Good afternoon, Your Honor, Stan Yang from the United States Trustee.

CLERK: (indiscernible).

MR. WALENCHOK: Hello. This is Thomas Walenchok with Baker Tilly.

THE COURT: Okay.

MR. SOUTHARD: Your Honor, again, for the record, Sean Southard on behalf of Dowling. Your Honor, we have a brief update for Your Honor this afternoon. And then we have a number of fee applications on this afternoon, and I believe most of the folks here in the galley today are professionals associated with those fee applications.

THE COURT: Okay.

MR. SOUTHARD: So, Your Honor, the brief update really just has to do with the matters that have take place since the effective date, since we were last here before Your Honor at the confirmation hearing. And that effective

1 date occurred on January 14 of this year. Thereafter,
2 around the end of February the plan administrator, who is
3 the former CRO of Dowling, Mr. Robert Rosenfeld, paid all of
4 the priority level claims that were allowed, totaling
5 approximately \$3 million; of that amount, roughly \$1.5
6 million was paid to the former employees of Dowling in
7 relation to the global settlement that was reached between
8 Dowling and those former employees. So, all of their
9 allowed priority level claims, up to the cap of roughly
10 \$13,000 per employee, were paid. In addition to that, there
11 was approximately \$1 million that was paid to New York State
12 Department of Labor on account of the unemployment benefits
13 associated with those former employees as well, and roughly
14 \$360,000 paid to class counsel for those employees, the
15 Outten and Golden firm. They were, as Your Honor will
16 recall, responsible for the Plaintiff's side of that
17 litigation, and then negotiation which led to that global
18 settlement. So, those claims were all paid and satisfied.

19 In addition to that, Your Honor, the DIP loans were
20 paid off. Those amounts, post-effective date, totaled
21 roughly \$3.8 million and the payments, in addition to that,
22 were paid to secured creditors totaling just under \$10
23 million.

24 Further, \$300,000, as was required by the plan,
25 was paid to the unsecured creditor trust, which was

1 established as part of the plan, and a wind-down reserve to
2 wrap up the estate, and pay for things like storage,
3 retention of records, etc., as required by Your Honor's
4 prior order, was reserved and funded by the plan
5 administrator.

6 Finally, sufficient funds are on reserve for the
7 plan administrator to pay the total of unpaid professional
8 fee accruals in the event that Your Honor approves the fees
9 today on a final basis. There are sufficient funds on hand
10 to satisfy those.

11 In terms of unpaid professional fees, at this
12 point, for all of the Debtor's professionals in the
13 aggregate, the total unpaid is approximately \$525,000. So,
14 if Your Honor were to approve all of the Debtor's
15 professionals today, that's the rough aggregate number of
16 unpaid debtor-side professionals. And then, in addition to
17 that, by our calculations, there's approximately \$132,000
18 due to committee professionals, that remains unpaid as of
19 today.

20 THE COURT: We have \$152,000 that they claim
21 they're owed.

22 MR. SOUTHARD: Yes, Your Honor. And I was going
23 to get to that. But I'm happy to address it now.

24 Your Honor will recall that the applications were
25 filed initially on the first week of February with an

1 original hearing date set for February 26. They were
2 adjourned until today. During that period, the interim 80
3 percent compensation for November and December, which had
4 not, as of the application period, come due; were paid by
5 the Debtor and plan administrator.

6 THE COURT: After confirmation you paid out money?

7 MR. SOUTHARD: The 80 percent on the fees that
8 were pre-

9 THE COURT: (indiscernible) a dollar. After
10 confirmation you paid out money?

11 MR. SOUTHARD: Yes, Your Honor.

12 THE COURT: Okay, keep going.

13 MR. SOUTHARD: So, those amounts reflect the 80
14 percent that was otherwise permitted under Your Honor's
15 prior interim compensation order, and that reduces the
16 unpaid request by that amount. So, that actually only
17 impacts my firm as well as the Silverman Acampora firm, in
18 terms of the requests that are being made.

19 THE COURT: What are the total professional fees
20 in this case?

21 MR. SOUTHARD: Your Honor, I can go through them
22 one by one.

23 THE COURT: I can to, but if you have a number ...
24 I view it as about \$6 million, give or take.

25 MR. SOUTHARD: I think that's on the high side,

1 Your Honor. As I mentioned, the unpaid professional fees,
2 at this point, is about 525 on the Debtor's side --

3 THE COURT: I understand that. That's not what I
4 asked. I asked, what are the total professional fees
5 incurred in this case to date, including brokers and
6 everybody else?

7 MR. SOUTHARD: I can add it up. I apologize, Your
8 Honor, I have a list and they don't tally at the bottom.
9 So, I can add that up.

10 THE COURT: No, I'm pretty close to knowing what
11 it is. Go ahead.

12 MR. SOUTHARD: Your Honor, we are here then, this
13 afternoon, with respect to, I believe 12 applications for
14 final approval by Your Honor, of fees and associated
15 expenses by the various professionals retained by the
16 estate. The interim compensation period that Your Honor has
17 not yet reviewed spans a roughly seven-and-a-half-month
18 period from June 1, 2018 through the effective date of
19 January 14 of this year. So, again, roughly seven and a
20 half months that has not --

21 THE COURT: Let's just summarize for a second,
22 because I want to do this as cleanly as possible. Certain
23 assets of Dowling were sold for far less than we thought.
24 That was the market, they were sold. There's no assets
25 left, hard assets left, really. There's a couple that there

1 may or may not be, litigation left -- which is another issue
2 I have to deal with in a little while. The secured
3 creditors were largely paid, except for a carve out that
4 they gave to various professionals in the case, to allow the
5 case to go ahead. All that's correct so far?

6 MR. SOUTHARD: There are significant deficiency
7 claims by the secured creditor.

8 THE COURT: I don't care about that one, frankly.

9 MR. SOUTHARD: That's the only thing I would
10 suggest.

11 THE COURT: The unsecured claims ended up to be
12 what?

13 MR. SOUTHARD: In terms of aggregate dollars?

14 THE COURT: Total amount, yeah.

15 MR. SOUTHARD: Well, they haven't -- the plaintiff
16 resolution process is not complete, Your Honor.

17 THE COURT: What is it to date?

18 MR. SOUTHARD: There are probably 20 million in
19 filed and --

20 THE COURT: Not counting the deficiency claim.

21 MR. SOUTHARD: Unreconciled, not counting the
22 deficiency. At the end of the day, the expectation is,
23 after objection, that that number will be closer to --

24 THE COURT: Well, I haven't seen any objection to
25 anything, so I don't know there's going to be an objection.

1 I got \$20 million of unsecured claims. I got countless
2 dollars that I can't figure out, of kids who are going to
3 spend the rest of their life paying money for something they
4 never got, from an institution that never gave them
5 services; shouldn't have been allowed to continue, and these
6 kids are going to be damaged for the rest of their lives
7 economically. And I got \$150,000 sitting in account to pay
8 these people. And I got professionals -- because I added it
9 up -- who are getting \$6.1 million. This is a public
10 interest case. You guys made that clear, the code makes it
11 clear. Nobody should consider this a success, all right.
12 We got a case confirmed and people like that; this is not a
13 successful case. It is what it is, but it's not a
14 successful case. It is for the lawyers, it is for the
15 brokers, it may be for the accountants, but it's a miserable
16 result.

17 And I have nothing, zero, on the table that will
18 show why this happened -- zero. I have never in my life,
19 I've been doing this for 40-some-odd years -- that's longer
20 than most of you -- I've never seen a case go past
21 confirmation without a single adversary brought on a section
22 five claim for anything --anything -- never in my life. And
23 I've checked with friends and colleagues; nobody has.
24 Nobody. So, either this was the world's most perfect group
25 of folks, or I don't know.

1 Then I go through the time sheets, everybody's
2 time sheets, line item by line item, because I don't want to
3 make mistakes. Do you know how much money was devoted, or
4 time has been devoted to analyzing any potential claims
5 other than maybe two lawsuits, any section five claims? If
6 I give you a dollar you have to give me change. Not a
7 penny, not one penny of anybody's time has gone to objecting
8 to claims or potential section five claims, and I got a
9 confirmed case. And I got 20-some-odd million, plus
10 countless other debt, out there. So, the idea that we're
11 all here for a yuck fest ...

12 Now, you guys have earned -- most of you -- have
13 earned fees. That's the deal: You did the work; normally
14 the courts pay. Did the brokers do a great job? I don't
15 know. I don't know how hard it is to get somebody to pay a
16 fraction of what they estimated it was worth, but they get
17 the money. All right? We'll worry about it in another
18 case.

19 But I don't want anybody to be confused that this
20 Court believes that the work done in this case, while
21 professional, and you handled it and you got it done, should
22 be deemed anything but an abject failure, to date.

23 Now, I got a whole conversation about where we're
24 going, but most of you won't be here for that. But I just
25 wanted to make sure everybody understood that I'm going to

1 award, for most of you, the fees. But that is not an
2 indication of my esteem that I hold this case in -- by
3 anybody -- US Trustees Office, you guys, anybody.

4 And maybe the Court had a role in this. I did
5 something at confirmation I should not have done, I know it.
6 I know it today, I shouldn't have done it. I did it. We
7 all do, we make decisions, we have to. Would I do it
8 something different? I don't know. But I'm not proud of
9 what I did.

10 Do you know how many letters and people have been
11 hurt by this institution? Does anybody understand? This
12 was a college out here, thousands of kids went through this
13 place. The degrees are worthless to many of them. And more
14 of them have a huge debt that they can't get rid of. They
15 can't get rid in this Court, they can't get rid of it in
16 District Court, they can't get rid of it in State Court;
17 they can't buy houses. And I have no idea what happened to
18 the money. Nobody does. Nobody does.

19 Now, that's just the frustration. I'm not blaming
20 anybody. You didn't do it, I know that. None of you guys
21 did it -- well, potentially. But it is credibly upsetting
22 to me, and we've got cases like this all over the country.
23 This is a different example. There are schools in trouble
24 all over. We get calls on this case from New Jersey to
25 Pennsylvania to other places; schools threatening that they

1 have to file, what do they do? What do they do with the
2 kids? How do you get a case done?

3 I'm not putting this all on you guys, okay?
4 Congress didn't do anything; the Courts are limited by what
5 we can do. It's just heart wrenching to have people who
6 say, "I have no future. I've got no future. I'm 23 years
7 old ... 24, 25, ... I got no future. I owe \$30,000 --
8 \$25,000. I don't have that to pay back. I can't borrow
9 money. My credit is disastrous and I got nothing. And two
10 minutes after I was in that school the cut the major, they
11 told me they couldn't do this. Then they said, by the way,
12 'If you want to move, you can go to a different school
13 without having any of your credits.'"

14 Somebody's accountable. And whether it's through
15 litigation or through something this Court's going to do,
16 there's never going to be a settlement with any case in
17 this, of any litigation in this case, I can tell you that
18 right now, without a full explanation of what everybody did.
19 There's no confidential settlement that's going to be
20 approved, nothing like that; never going to happen. So, if
21 that's anybody's theory, you can throw that one out. Never,
22 ever, ever, whether it's the board or the accountants or
23 anybody else. There's going to be a full accounting --
24 small A -- for what happened. We'll not agree to any
25 confidential or closed settlement. And if the theory is

1 that you can't get here, good luck, we'll figure it out.

2 So, I'm prepared to go to the fees. Again, it's
3 not personal guys, it really isn't. It is a frustration
4 that I think we should all feel, for a system that has let
5 thousands of local kids down. It's not personal. You all
6 do what you're supposed to do. You didn't put them in that
7 school -- anybody here, at least, I don't think -- and
8 people make decisions and have to live with it. You're not
9 in Congress, you can't change the law. I'm not either, I've
10 got to just apply the law. And no matter how much we try to
11 get around it, case by case, it's not going anyplace. But
12 it is a frustration. And I wanted the record to reflect
13 that. And again, I want to make sure -- it is not personal.
14 I'm not attacking any of you guys personally. Everybody
15 I've seen in this Court has been a good lawyer, guys I know
16 for a while. That's not it. It's just wrong, and I can't
17 fix it, and that's my frustration. There's no purpose for
18 what I do unless we can make somebody's life a little better
19 and here, I can't do a darn thing.

20 MR. SOUTHARD: Your Honor, I can appreciate the
21 Court's frustration. It is a frustrating set of
22 circumstances and, as Your Honor pointed out, it is a set of
23 circumstances that does exist across the country in
24 different pockets. And there's a lot wrong with the way
25 things happen in these contexts before the end. And there's

1 a lot of momentum, unfortunately, that drives it towards
2 that end in a precipitous way.

3 THE COURT: And I don't know people made decisions
4 they did. They made the perfectly reasonable at the time
5 they made them. It's always easy to look back. But I do
6 know I have no idea why they made them then. And my point
7 is, nothing is moving out of this Court until I understand
8 why they did it then. And then it may be reasonable. It
9 may be just -- that's the deal. But nothing is going
10 anyplace until I understand, on a public record, how we got
11 to where we got to. You are right, it's momentum. It
12 didn't happen the day before they filed. This was baked in
13 for years. I mean, I've read draft complaints, which I had
14 credibly well documented and done, which explained at length
15 it's only an allegation. But it gives you some context.
16 People have to see that, they have to see that. Anyway,
17 let's go ahead to the -- get you guys paid.

18 MR. SOUTHARD: On behalf of the Debtor, again,
19 Sean Southard, I will let others speak to the issue of the
20 post-confirmation causes of action that will be pursued.
21 But on behalf of the Debtor and I think the secured
22 creditors, the goal at the outset, as we came to Your Honor
23 in this case, was to liquidate the substantial real estate
24 assets. That goal was accomplished and accomplished with
25 some success in terms of value.

1 THE COURT: I think without hurting the community
2 either. The community seems -- they're still trying to
3 figure out what to do with it. But they're not turning it
4 into a toxic dump.

5 MR. SOUTHARD: No, Your Honor, they are not,
6 thankfully. And I'm quite sure that the different powers
7 that be in the different communities and towns associated
8 with the two campuses in particular, would not allow that to
9 happen.

10 THE COURT: Well, people have been very
11 complementary about the way the process ran; you got what
12 you could get, everybody wants more money. That's what the
13 market bore. But I think the fact that the facility was --
14 at least the one out here, Oakdale, was sold to someone who
15 doesn't -- not pejoratively, turn it into a Motel Six. It's
16 an iconic building and hopefully, that legacy then will be
17 something. You all minimize damage, let me put it that way.
18 And my frustration, I've already explained, so it has
19 nothing to do with -- other than my rantings on this day.
20 Go ahead.

21 MR. SOUTHARD: Understood, Your Honor. So, the
22 case, as you'll hear and see and know, having experienced
23 it, involved the coordination of efforts between many
24 professionals, stakeholders and regulators in this case,
25 including US Department of Education, US Department of

1 Labor, New York State Attorney General and the Office, in
2 particular. And as I mentioned, in addition to selling the
3 two campuses, there were substantial single-family
4 residential properties that surround the Oakdale campus,
5 which were likewise liquidated and yielded significant
6 value.

7 As Your Honor will undoubtedly recall, we had a
8 pretty complicated prepetition financing structure. They
9 had four series of bonds that were secured by different
10 interests in that substantial real estate collateral, made
11 for complicated debtor-in-possession financing, but with
12 Your Honor's assistance, we were able to move through this
13 case and advance the liquidation efforts.

14 We did have what I think was a major success in
15 the case, having to do with the global employee settlement,
16 which I think minimized the litigation costs associated with
17 what would have been a very costly litigation, and got some
18 real value to those creditors that they were due. That also
19 had the effect of settling the US Department of Labor claim,
20 a significant priority claim that was wrapped up in that
21 settling.

22 Your Honor, in terms of the big picture here, we
23 have several firms on for application today. I can take
24 them in order for Your Honor if you like. All the motions
25 were served. There's an affidavit of service on file making

1 that clear. There were no objections that were launched by
2 any party, including the US Trustee.

3 Again, I can take them one at a time, Your Honor.
4 Ours is first.

5 THE COURT: Just take them one at a time, tell me
6 what the interim, the final is, and that there were no
7 objections. If any of the individuals wish to present their
8 own, they can, or I'll let you do it.

9 MR. SOUTHARD: Thank you, Your Honor. First, Your
10 Honor, is Docket Number 679, which is my firm, Klestadt
11 Winters Jureller Southard & Stevens, final fee application
12 for the interim period. That is, again, the period from
13 June 1, 2018 through the effective date of January 14, 2019.
14 The compensation requested \$674,711.75, and the
15 reimbursement of expenses, \$4,455.99, for a total amount of
16 \$679,167.74. Again, that's the interim period covering
17 roughly seven and a half months.

18 Your Honor, then, on a final basis, which is,
19 again, approximately 25.5 months, so just over two years'
20 period, the requested total compensation is \$2,641,925.10.
21 The total reimbursement of expenses for that same period,
22 \$29,102.63, for a total amount of \$2,671,027.73.

23 In terms of unpaid balance of fees and expenses
24 requested, if Your Honor should approve that in total today,
25 my firm would receive, would be entitled to receive

1 \$449,811.18. That's essentially a combination of the
2 holdbacks from prior periods that has not been released.

3 THE COURT: Does anybody wish to be heard on this?
4 Any objections?

5 MR. YANG: No objection.

6 THE COURT: The Court will grant the motion. Ms.
7 Kiss, make sure you get a bonus on this.

8 MR. SOUTHARD: Thank you, Your Honor, for both of
9 those.

10 THE COURT: You guys did a good job on it.

11 MR. SOUTHARD: We appreciate that. Your Honor,
12 the next application is Docket Number 680. That is the
13 final fee application by the Ingerman Smith firm, again, for
14 the same interim period. The compensation requested is
15 \$13,470.

16 THE COURT: What did they do?

17 MR. SOUTHARD: Your Honor, they were special
18 counsel to our office. They were longstanding labor council
19 to the Debtor, and continue to provide those services post-
20 petition. So, total amount requested for the interim,
21 including expenses, is \$13,615.18. And then, on a final
22 basis, total compensation requested is \$58,890, with total
23 expenses of \$2,084.11, for a grand total of \$60,974.11,
24 again, for that same 25-month period.

25 THE COURT: Anybody wish to be heard on this? Any

1 objections? US Trustee has no objections. Court will grant
2 the motion.

3 MR. SOUTHARD: Thank you, Your Honor. Next, Your
4 Honor, we have two applications, numbers 681 and 682, both
5 by the Baker Tilly Virchow Krause, LLP firm. They served as
6 a dual role, Your Honor, as both tax accountant to the
7 Debtor, as well as consultants associated with the Title IV
8 federal funding -- I don't want to say audit, but financial
9 advisory work associated with bringing about the settlement
10 with the US Department of Education on their claim.

11 So, they have two separate applications. The
12 first, number 681, seeks, on an interim basis, a grand total
13 of \$5,115.75. And then, on a final basis, \$10,115.75 -- I'm
14 sorry -- I take that back, Your Honor. That is the amount
15 that's outstanding and remains unpaid.

16 THE COURT: They were going to come up --

17 MR. SOUTHARD: The total amount is \$30,115.75.

18 THE COURT: On this one?

19 MR. SOUTHARD: On this first -- that's a final
20 request, so that's the total period of their involvement for
21 the tax accounting work.

22 THE COURT: Anybody wish to be heard on this? Any
23 objections? No? UST?

24 MR. YANG: No objection.

25 THE COURT: Court grants the motion.

1 MR. SOUTHARD: Thank you, Your Honor. Then again,
2 for the same firm associated with their work as consultants
3 in the Title IV programs, the total final request, there is
4 no interim period request here; total final request of
5 \$8,234, plus \$1,131.43 in expenses, for a grand total
6 request of \$9,365.43.

7 THE COURT: Anybody wish to be heard? No
8 response. Court will grant the motion.

9 MR. SOUTHARD: Thank you, Your Honor. Your Honor,
10 the next application, it is by FPM Group Limited, and that's
11 Docket Number 688. This is, again, only a final
12 application. FPM also served as consultants to the Debtor
13 in association with the Brookhaven campus and the potential
14 redevelopment site planning and approval work that was
15 contemplated initially in the case. And their total fees
16 requested for the entire case is \$70,069.68; \$20,529.44 is
17 the reimbursement of expenses, for a total of \$90,599.12.
18 Approximately \$8,000-\$8,200, roughly, remains unpaid.

19 THE COURT: Anybody wish to be heard? No
20 response.

21 MR. YANG: No objection.

22 THE COURT: The Court will grant the motion.

23 MR. SOUTHARD: Thank you, Your Honor. The next
24 application is likewise a final application by Receivable
25 Collection Services, that is Docket Number 689. Receivable

1 Collection Services was retained as a collection agent to
2 the Debtor, focused on collection of unpaid student accounts
3 and tuition. They're on a contingency arrangement, and the
4 total compensation that they earned under that contingency
5 arrangement is \$30,318.48, no expenses requested.

6 THE COURT: And that will continue? Are you going
7 to continue to go after those kids?

8 MR. SOUTHARD: That will continue, Your Honor.
9 The efforts have not been terribly successful for various
10 reasons, but that is the current amount collected.

11 THE COURT: Court will grant the motion.

12 MR. SOUTHARD: Thank you. Your Honor, the next
13 two applications involve -- I'm sorry, I'll take that one at
14 a time. The next application is number 690, that's by CBRE
15 Inc. Your Honor, CBRE Inc. was retained as real estate
16 broker to the Debtor in possession, and was hired in
17 relation to the disposition of the Brookhaven campus, and
18 particularly retained to deal with the dorms and the
19 dormitory facility at the Brookhaven campus. They worked
20 together with the A&G Realty and Madison Hawk brokers in
21 relation to just the Brookhaven campus.

22 As Your Honor may recall, the Brookhaven campus
23 was sold for \$14 million and the Debtor agreed, along with
24 the committee and the secured creditors, to a compensation
25 amount in terms of reduced commission for CBRE and those

1 other real estate agents. So, based on that modified
2 request, they are seeking, and have actually already been
3 paid, from proceeds, the amount of \$145,000 even, with no
4 expenses.

5 THE COURT: Court will grant that motion.

6 MR. SOUTHARD: Thank you. Your Honor, the next
7 application is by the Douglas Elliman firm, also retained as
8 real estate brokers in the case, and their charge or focus
9 was on the residential portfolio, or residential, single-
10 family residences that were adjacent to or surrounded the
11 Oakdale campus here, close-by. They are seeking total
12 compensation, again, on a commission structure basis for all
13 of their work in the aggregate amount of \$335,640.

14 THE COURT: This is just a percentage of the total
15 sales on those houses?

16 MR. SOUTHARD: That is correct, Your Honor.

17 THE COURT: Court will grant the motion.

18 MR. SOUTHARD: Thank you. The next application is
19 a joint application by A&G Realty partners, LLC and Madison
20 Partners LLC. That's Docket Number 692. These real estate
21 brokers, Your Honor will recall, were retained in relation
22 to both the Oakdale campus disposition, as well as the
23 Brookhaven campus disposition.

24 THE COURT: Again, this is just a percentage of
25 the sale price as retained by the Court.

1 MR. SOUTHARD: Correct, Your Honor.

2 THE COURT: Anybody have any objections to this?

3 MR. YANG: No, Judge.

4 THE COURT: Court will grant the motion.

5 MR. SOUTHARD: Thank you, Your Honor. Your Honor,
6 the next in the list involves Docket Numbers 693 and 696.

7 Together that is the final application by Epiq Class Action
8 and Claims Solution.

9 THE COURT: These guys were never retained. Epiq
10 never -- after they acquired Garden City, never sought
11 retention by the Court. Now, I'm not going to stop it,
12 because the UST, either -- I guess, has no problem with it.
13 But they fail to seek substitution. But it is what they're
14 entitled to and so, unless anybody wants to make a big deal
15 of it, we'll go ahead. These are people who were never
16 retained. They acquired the company that was retained.
17 They are required to file a substitution. As long as the
18 USC has no objection to that, the Court will grant the
19 motion.

20 MR. YANG: Your Honor, I was wondering,
21 (indiscernible) to submit a retention auth (indiscernible).

22 THE COURT: I don't need them doing a retention
23 auth now. Just tell me it's okay and it's I'll -- what is
24 it, \$26,000, whatever this is?

25 MR. SOUTHARD: Yes, Your Honor. This really

1 relates primarily to the solicitation --

2 THE COURT: Just tell me it's okay and it's done.
3 What?

4 MR. YANG: I think (indiscernible).

5 THE COURT: No. Do you object?

6 MR. YANG: Your Honor, I would really defer to
7 (indiscernible) retention (indiscernible).

8 THE COURT: Okay. I'll tell you what, when they
9 get the retention order, put it in UST signs off, just
10 submit this order up to chambers and we'll sign it. We
11 don't have to have another hearing.

12 MR. YANG: Okay, Your Honor, thank you.

13 THE COURT: Thank you.

14 MR. SOUTHARD: Your Honor, then the final
15 application of the Debtors' professionals is the application
16 by Farrell Fritz, PC, who again, served as special counsel
17 to the Debtor and debtor in possession, primarily in
18 relation, again, to the planning and negotiation with the
19 town of Brookhaven associated with the Brookhaven campus
20 disposition. The interim period application is a small sum
21 in total, between expenses and fees, \$2,898.20. And then,
22 on a final basis, they seek compensation for \$29,403 in fees
23 and \$621.35 in expenses for a total of \$30,024.35.

24 THE COURT: Anybody have any objections? Court
25 will grant that motion.

1 MR. SOUTHARD: Thank you, Your Honor. So, that
2 concludes all of the Debtor professionals. The committee
3 professionals, the Silverman Acampora firm --

4 THE COURT: You probably shouldn't do this one.

5 MR. SOUTHARD: Okay. I will take my leave then,
6 Your Honor, and cede the podium. Thank you.

7 MR. POWERS: Good afternoon, Your Honor. Brian
8 Powers, Silverman Acampora, counsel of the committee in this
9 case. Your Honor, this is the fourth and final application
10 of Silverman Acampora as committee counsel. The total for
11 the interim period, which is, again, June 1, 2018 to January
12 14, 2019, for our firm is \$159,650 for fees, \$346.41 in
13 expenses. That brings the total for the entire period to
14 \$840,7--

15 THE COURT: How is it that you didn't investigate
16 any section five claims -- didn't even investigate them?

17 MR. POWERS: Your Honor, Anthony Acampora, who
18 handled most of the litigation is also here.

19 MR. ACAMPORA: Good afternoon, Your Honor. Mr.
20 Powers covered the numbers because it's not my forte. The
21 Debtor had stopped paying people. Now, Your Honor has read
22 the complaint, the draft complaints that we prepared. The
23 Debtor stopped paying people within the preference period,
24 (indiscernible) down seven or eight months before the
25 filing. So, that did not seem to be a fruitful area --

1 THE COURT: But you didn't do any investigation,
2 not a penny's worth. Nothing. Zero.

3 MR. ACAMPORA: We were focused more on --

4 THE COURT: So, you don't know what the Debtor did
5 or didn't do. You can't, because you didn't do anything
6 about it.

7 MR. ACAMPORA: Well, in the context of doing the
8 investigation that we did vis-à-vis the accountants, and
9 vis-à-vis the D's and O's, the books of reference that I'm
10 looking at -- and make no mistake, I looked at everything as
11 Your Honor is well aware.

12 THE COURT: No, I have a lot of faith in what you
13 do. This is not a personal thing.

14 MR. ACAMPORA: I'm not taking this as being
15 persona. When we looked at that, we determined that that
16 was less likely a manual recovery. Who was getting paid?
17 This was not a debtor that was making fraudulent conveyances
18 --

19 THE COURT: You don't know that. You don't know
20 that; that's my point. You cannot tell me, and I looked
21 through this thing several times to make sure I'm right, you
22 can't make any representation to me, or you did it pro bono,
23 that your firm has done any analysis. Now, if you tell me
24 that a three-year period or the six-month period, whatever
25 periods you want, the Debtor didn't pay a single person,

1 didn't make a single check payable to anybody, and you can
2 demonstrate, you'd be right. But I kind of doubt that. I
3 kind of doubt that they didn't pay anybody. But your firm
4 did nothing as committee counsel. We have \$840-some-odd-
5 thousand bill to your firm; \$310, give or take is primarily
6 due to litigation that's never been brought, complaints that
7 never been filed. And in the pipeline now, as I see it, not
8 a penny could be generated for future -- for the creditors.
9 They may. You may sell it. You may do whatever you want.
10 But as I'm sitting here today, the value added of this
11 creditors committee counsel -- now, you had a -- I looked at
12 the timesheets. I understand your role in this, so you're
13 the guy standing here, but you're not the guy I'm talking to
14 -- did nothing. Every entry that I looked at is A talking
15 to B consulting with C. Having spent 40 years in this
16 business, I know exactly what that means.

17 Now, I know your partners, I know you, I have no
18 implication of anything of bad faith. You are good, honest
19 lawyers and have always been for many, many years. I want
20 that clear. But I cannot, in good conscience, and based on
21 decisions I've written, today award any fees on a final
22 basis, or any holdback, until I can measure the value of
23 what your firm did in this case.

24 Now, if I could break it down to the non-
25 litigation pieces, make a final award of a fraction of this,

1 but you don't want me to do that. That's not a place you
2 want to go. I'm willing to leave this open until we see
3 where we're going.

4 Now, we have asked several times, through Mr.
5 Klestadt, through Mr. Southard, I think through one of your
6 partners, to get a better understanding of what's going on
7 in the case. I've done that, I've wanted to know. The
8 response we get is that there are two potential litigations:
9 one complaint I read in camera, because it was under seal,
10 that was drafted a year ago, August 18, which you put an
11 enormous amount of work in. And I will tell you, the
12 complaint that I read, and it is only a complaint and
13 allegations, so I'm not ruling on the -- was documented,
14 well presented, laid out what was to me one side of a
15 question, an incredibly concerning exercise by this company,
16 by this school.

17 There is, apparently, another complaint, which has
18 not been submitted or filed with the Court, against various
19 individuals, offices and directors. When we asked what the
20 status of these are, the response we got is that as to the
21 accountants, the process requires -- and I've never heard
22 this, but I'll assume it's right -- first the mediation,
23 which has not begun.

24 MR. ACAMPORA: That's not --

25 THE COURT: Right, after a year. Then, failing

1 mediation, you have to go to arbitration, which means, at
2 the end of the day, this Court has nothing to say about the
3 result you get, because the argument is, I'm bound by the
4 arbitration. Well, that concerns me, but if that's what you
5 guys believe.

6 Now, I got a simple question, which is, there's
7 basically no money left in this estate. Arbitration and
8 mediation, let alone litigation, are incredibly expensive.
9 Who's going to do it?

10 MR. ACAMPORA: I'm standing here, Your Honor.

11 THE COURT: All right.

12 MR. ACAMPORA: So, to --

13 THE COURT: That's all you've got to say.

14 MR. ACAMPORA: I was asked the same question many
15 years ago. We had a very successful result. I won't
16 mention the judge --

17 THE COURT: Just wanted to ask the question. So,
18 you guys are staying in it.

19 MR. ACAMPORA: My firm has never run from a fight,
20 it's never run from a case. Your Honor, a couple of issues:
21 one, the claim --

22 THE COURT: Let me just finish the second one,
23 then I'll let you go. The second matter, which is the
24 offices and directors, were told that you don't want to file
25 the complaint because that will cause it to go to their

1 insurance company, which then drains the insurance policy,
2 assuming that the people who are the officers or directors,
3 only had money covered by an insurance policy. Now,
4 whatever your litigation -- that's what we were told.

5 MR. ACAMPORA: That was lost somewhere in
6 translation.

7 THE COURT: I'm just telling you what we know.

8 MR. ACAMPORA: Let's have them correct it.

9 THE COURT: That's fine with me.

10 MR. ACAMPORA: Whenever you're ready, sir.

11 THE COURT: You go.

12 MR. ACAMPORA: As it relates to the accounts, the
13 accountants had been the Debtor's accountants probably for
14 better than ten years. I looked at six years of work
15 papers, six years of engagement letters. It's very clear,
16 and every year since 2010, that the process for that
17 accounting firm is mediation; failing mediation,
18 arbitration. I don't think that there's any way around
19 that. We have reached out to the accounting firm. And one
20 thing I'd like to point out, Judge, is that we didn't get
21 STN authority, I don't believe, in August of 2018. Or we
22 got it around -- I don't remember when we got STN --

23 THE COURT: September 2018.

24 MR. ACAMPORA: So, the time period from which we
25 were ready to go, to confirmation, was very compressed.

1 That's why we haven't commenced anything. We felt we were--

2 THE COURT: Let's make sure we're talking the same
3 language. You came into Court on an emergency basis, I
4 think.

5 MR. ACAMPORA: It wasn't emergency.

6 THE COURT: I thought it -- whatever it was,
7 asking for the right to file a complaint, gave me a draft of
8 it, not to be docketed, and said it's important and we want
9 the authority.

10 MR. ACAMPORA: Correct.

11 THE COURT: That was, we got that, I think, in
12 August of '18. The hearing was in September, and nothing's
13 happened.

14 MR. ACAMPORA: And then confirmation took place.

15 THE COURT: Confirmation has nothing to do with
16 it.

17 MR. ACAMPORA: A decision was made that it might
18 make more sense if --

19 THE COURT: What concerns me is that a decision is
20 made, and I'll tell you straight out, that after
21 confirmation, the theory is that you guys have no need for
22 my approval of your fees. You can take whatever fees you
23 want, and that Mr. Friedman, who is the trustee of the
24 litigation trust, which I objected to at confirmation, but
25 let it go ahead -- so that's on the record, is the party

1 making the decisions, apparently, for the trust. And that
2 when settlements are reached, and compensation is due, that
3 does not come through this Court. Am I right about that?

4 MR. ACAMPORA: That would be my understanding,
5 yes.

6 THE COURT: Right. You can understand why that
7 may concern me.

8 MR. ACAMPORA: Of course. It should, because I'm
9 standing here, but I understand, theoretically, why it
10 should concern you.

11 THE COURT: We used to have a president who said
12 very, you know, trust but verify.

13 MR. ACAMPORA: So, Your Honor, as relates to the
14 accountants, I have a mediation and then I have an
15 arbitration. We are in the process of picking
16 (indiscernible). So, I tried to actually short circuit that
17 process a little bit, and it's a robust accounting firm and
18 they have their protocols. I've dealt with them before.
19 And we are in the process of picking them and settling on
20 mediators; we can't agree on one.

21 THE COURT: I know the process.

22 MR. ACAMPORA: We will pick one, that mediation
23 will take place probably next 30 days, I would say. There's
24 not a lot.

25 THE COURT: It takes six months to go through a

1 mediation, generally.

2 MR. ACAMPORA: Six months? No. Our intention is
3 to get it done very, very quickly.

4 THE COURT: Then you've got to go to arbitration.

5 MR. ACAMPORA: Then we'd have to go to
6 arbitration.

7 THE COURT: And that's a three-person arbitration?

8 MR. ACAMPORA: Yes. That may take a little bit
9 longer. But again, it's going to move much more quickly
10 than it would if I was in State Supreme Court or District
11 Court.

12 THE COURT: Yeah, but one of the things that it
13 doesn't do is it doesn't make public what everybody did.

14 MR. ACAMPORA: So, that's interesting you say
15 that. Because attorney, Mr. Powers, during your -- I don't
16 want to call it a sleep or a colloquy, during your --

17 THE COURT: Diatribe.

18 MR. ACAMPORA: -- diatribe -- if we can agree?

19 THE COURT: It's okay with me.

20 MR. ACAMPORA: But I said, please order the
21 transcript -- not for me, but for my adversaries. Because I
22 need them to understand how disturbed you are because --

23 THE COURT: About the case or in general? I'm
24 kidding. You sound like the rest of my family.

25 MR. ACAMPORA: Your call, Your Honor.

1 THE COURT: Or any of you guys.

2 MR. ACAMPORA: I share your concerns and I share
3 your reaction. When I had heard that Dowling had gone out
4 before the bankruptcy was filed, I was puzzled by how an
5 institution on Long Island that educates children -- and
6 make no mistake, they are children -- at a higher level,
7 just shuts its doors. And I was also confused why there
8 wasn't tons of class action lawyers, like you and I have
9 certainly run into our share of class action lawyers over
10 the years, racing in to bring actions on behalf of those
11 students. Be that as it may, that's where we are.

12 THE COURT: You know your own allegations. I'm
13 not going to repeat them. The numbers in that are shocking.
14 You wrote them, not me. I'm just reading what you wrote,
15 and those numbers are specific enough that they're accurate.
16 There may be another side to it, but they're accurate. It
17 is important and critical that the public understand, in
18 this educational process we now have, with these loans, what
19 is going on. And this is a public interest case.

20 MR. ACAMPORA: I'm going to use that as a segue
21 into the D and O case. We've been in touch with the D and O
22 carrier, which is AIG. Mr. Friedman and I actually just
23 concluded a transaction involving AIG in the Southern
24 District. So, we're familiar with them and familiar with
25 how they work. And they're asking to see a draft complain

1 before they actually engage anything. We, of course, as I
2 said to you previously, held off on doing that because,
3 quite frankly, there are some substantial people on the
4 board. And my concern, as it always is with the directors'
5 and officers' litigation cases, there's \$15 million of
6 insurance. Please forgive me, I need to walk a very fine
7 line --

8 THE COURT: Please.

9 MR. ACAMPORA: -- litigation that I haven't
10 started, so I need to balance my act a little bit. But I've
11 had litigation involving D's and O's, or D's and O's spent
12 \$5 million on a policy and motions to dismiss. I don't want
13 that to happen here, and then find ourselves chasing
14 individuals who may very well, as Your Honor has pointed
15 out, may very well have money to pay this. So, I'm not sure
16 how I can accomplish both goals, where I can recover money
17 for these creditors, which to me is paramount, and satisfy
18 Your Honor's concern that this is a public case, because the
19 true bankruptcy mercenary in me says it's all about the
20 dollars; nothing I do going forward to these D's and O's is
21 going to change what XYZ college in Mississippi is doing.
22 This is a cautionary tale. But, as Your Honor has said,
23 it's a cautionary tale that's been told over and over and
24 over. One of the many presidents that Dowling had, and this
25 is all public record, basically made a living as a

1 troubleshooter, to go around to institutions of higher
2 learning and help turn them around. He lasted less than a
3 year at Dowling. So, while I appreciate the outrage, and I
4 share the outrage, Your Honor, if you were a client, I might
5 say to you, in fact, I would say to say I don't know that I
6 can get there from here. I don't know that spending
7 millions of dollars, or hundreds of thousands of dollars to
8 get a judgment while the D and O policy wastes away, to
9 expose this to the world, please, don't mistake this
10 commentary by saying I disagree with you. I don't disagree
11 with you. But I have a job to do and the job is to collect
12 money for these creditors. And I'm going to do the job
13 right, then you can get a substantial recovery.

14 THE COURT: It's your case, not mine. You're a
15 good litigator. You have a history of that.

16 MR. ACAMPORA: Thank you.

17 THE COURT: I know that's your strategy, but my --
18 I've told you my problem. I felt that a year, almost a year
19 -- eight months, would have been sufficient time to explain
20 to somebody that on Friday I'm filing this complaint if you
21 don't settle, because you and I both know the only time you
22 end up with a settlement is on the eve of something changing
23 the equation. Time is not on this Debtor's side. This
24 Debtor has not made a single distribution, nor does I have
25 any money really, to distribute to unsecured creditors.

1 It's a waste of time to distribute 100,000 or whatever it is
2 -- not a waste -- I mean it could be \$10 to somebody, which
3 may be relevant, but I ... My little role in this exercise
4 I've already explained. And I am not prepared at this point
5 -- I'll adjourn it -- to change the current status of the
6 final fee or the interims until I see, or I believe there's
7 progress being made that could result ... You're not an
8 insurer, I understand that. If there is no case, there's
9 not case and then that's the end of that. I can't make that
10 determination, and no matter what you explain to me, I have
11 never in my entire life seen the case where a committee has
12 failed to bring, or spend one dollar's time on five claims
13 or other certain type claims.

14 And to tell me that the theory is they can't
15 exist, at the same time when you've never looked, I don't
16 get it, frankly, but that's where we are. And so, I respect
17 your position. I've done an enormous amount of thinking
18 about this. I don't do this lightly, but the fact that the
19 Court has been divested, in part, of any, according to these
20 agreements, say in future compensation to the committee, or
21 its counsel, or apparently, at least with regard to the
22 accounting firm, and they say what that settlement would
23 look like -- I'm not prepared to sign off on anything today.
24 So, until the landscape changes, that's where we'll be.

25 MR. ACAMPORA: May I make two points, Your Honor?

1 THE COURT: Sure.

2 MR. ACAMPORA: First, I disagree with you as you
3 comment that litigation doesn't settle until something bad
4 is going to happen. Remember, I have professional
5 defendants here, and professional defendants in an insurance
6 company that understands the way the world works, and an
7 accounting firm that I've had, and reached settlements with
8 in the past. So, they're not your typical litigant who
9 says, let me get to the steps of the Courthouse. I settled
10 a case where they to, recently, in two phone calls in the
11 first day and a half. I can get a result, potentially. So,
12 they're not going, necessarily, going to make us wait. I
13 also believe, and going to walk a line again here, that I
14 think the D's and O's are motivated to get this thing
15 resolved as quickly as possible. That's number one.

16 Number two, while this may have no impact on Your
17 Honor's decision, I feel like we're being -- we are a
18 guarantor here, we are insurer. You've paid everyone for
19 the work that they've done, and we've done an enormous
20 amount of work and we've set up this case going forward, so
21 the unsecureds can get a recovery. If Dowling Brookhaven
22 campus is sold for \$40 million, we wouldn't be having this
23 discussion. But other professionals didn't sell it for \$40
24 million either. And this is a substantial amount of money
25 that my firm has been waiting to get paid.

1 THE COURT: Your \$130,000 loan, everything else
2 you've gotten.

3 MR. ACAMPORA: I understand, but it's --

4 THE COURT: It's just not yours permanently yet.

5 MR. ACAMPORA: But what you're telling us is we're
6 going to take a look at how well we do going forward.

7 THE COURT: I've written that, yes. I believe
8 that's true.

9 MR. ACAMPORA: So, I'm again --

10 THE COURT: Because I cannot evaluate whether what
11 you have done or what portion you have done -- I don't
12 question that you spent the time.

13 MR. ACAMPORA: I understand.

14 THE COURT: My simple mind basically says, how
15 have you aided the Debtor? And I've written on this and I
16 have a strong belief in it, that the role of the
17 professionals in the bankruptcy system is not merely to poor
18 people. We have enough of that. And fees can be a multiple
19 of this. In the Southern District cases, we all know, this
20 is a round off in some cases. I had a case in the Southern
21 District, \$30 million in six weeks without a contested
22 matter. I was astounded. I didn't know how they could do
23 it. They've been awarded for figure it out. But here,
24 you've got -- I've given you -- you've taken, under the
25 interim orders, at the consent of the Court, all but

1 \$130,000.

2 What I'm not willing to do is, the 130 is probably
3 less relevant, even though I'm not going to award it, it's
4 I'm not willing today to sign an order that says you get to
5 keep all that you got until I can do a final analysis of
6 whether all you got or will get is fair and equitable and it
7 benefits to the estate. And I don't know how to value that,
8 because at the present time, there's not a single lawsuit
9 that's been brought. All I have is statements that the case
10 will be settled without the Court -- at least with regard to
11 the accountants. And I have nothing to do with how those
12 settlements break down, as to whether it's a settlement for
13 \$10 million or \$2 million, of which, after the lawyers get
14 paid, is 80 cents left for creditors.

15 So, the only mechanism I have, in part, to make
16 sure that this thing stays on target and ends up where we
17 all think it should end up -- I don't know who is going to
18 win or lose, and I'm not holding you responsible for who
19 wins or loses. I'm holding you responsible that you do the
20 work and I see that the work was done, and right now, I
21 don't.

22 MR. ACAMPORA: With all respect, because I would
23 never say with all due respect because Judge Duberstein
24 taught me that that means with no respect --

25 THE COURT: I know you long enough, it's doesn't

1 bother me.

2 MR. ACAMPORA: I feel like we're being penalized
3 here.

4 THE COURT: You're not being -- you are, in a
5 sense -- now, here's why.

6 MR. ACAMPORA: Judge if I don't collect anything,
7 and I come back and say --

8 THE COURT: If you did the job it won't have any
9 impact on what I do.

10 MR. ACAMPORA: This is not a FEG situation. This
11 is me standing here telling you that there's no money in an
12 estate, and the money to pay us is from the secured lender,
13 not from the creditors. And we're ready to go forward.

14 THE COURT: Secured lenders are ambivalent. If I
15 tell them to give it to the creditors, they would have given
16 it to the creditors. If I called a secured lender today and
17 said, "You know this \$600,000 that I paid out to the firm,
18 would you mind if we gave it to creditors?" they wouldn't
19 care less. So, let's not ... You disagree with me and I
20 understand that, and I respect that you should, because this
21 is not a decision you like. I have no problem with that,
22 and I respect your thought process. You're a man of high
23 integrity. And I know Ken Silverman for a long time. This
24 has nothing to do with you guys personally. But I have a
25 case where I have -- and we don't let outside influences

1 affect us, but there are countless people who were hurt. I
2 read that complaint. Those people should -- if their
3 complaint is true -- I know you believe it is

4 MR. ACAMPORA: If I can prove it.

5 THE COURT: If you can prove it. We've seen that
6 a lot recently.

7 MR. ACAMPORA: I know --

8 THE COURT: If it could be prove, it sounds like
9 Bill Maher.

10 MR. ACAMPORA: Right.

11 THE COURT: I don't know why, but I know it's
12 true. If you can prove what's there, this is so far past
13 outrageous that outrageous can't even see in the rear-view
14 mirror. If you can't but you can't prove, that doesn't
15 affect me. That's fine. You did the work. You took the
16 best shot you can.

17 I have a lot of respect for the complaint you
18 drafted. I went through it year by year. You raised your
19 own questions. There was a million X in a certain year. We
20 don't know where the money is. I still don't know where the
21 money is. Nobody tried to find where the money is. I don't
22 know where that money is, and when I add it up, it's a
23 material amount of money.

24 So you're going to get settled. I trust you will
25 or resolve it one way or another. At the end of that

1 resolution, I have -- or at some interim stages can renew
2 your application. I'm not saying anything other than that.

3 MR. ACAMPORA: Here's my concern. I have a post-
4 confirmation trustee who gets to make independent business
5 decisions.

6 THE COURT: He's your partner.

7 MR. ACAMPORA: Yes.

8 THE COURT: Okay.

9 MR. ACAMPORA: No secret.

10 THE COURT: It's in the papers?

11 MR. ACAMPORA: But --

12 THE COURT: He gets \$6,000 a month to sit there
13 and do this. And I don't know if he's collected or not.
14 That's irrelevant. I'm just talking about the deal. And he
15 makes the decisions as to what will be settled and not
16 settled with an oversight board that will probably listen to
17 him. I have an objection to that. The UST did not. Nobody
18 else raised objections to it. It's not a good formula.
19 It's one I will never do again.

20 No aspersions on anybody, but to have a partner of
21 the firm who's now responsible to bring the causes of action
22 against the only two assets is troublesome to me, all right.

23 MR. ACAMPORA: Okay. I hear what you're saying.
24 My question is from Mr. Sylvan -- Mr. Sylvan, I'm so used to
25 saying Mr. Sylvan -- Mr. Friedman and his counsel to decide

1 this is best deal we can get.

2 THE COURT: It's his decision, not yours. He's
3 the client.

4 MR. ACAMPORA: And he decides --

5 THE COURT: I accept that.

6 MR. ACAMPORA: He decides --

7 THE COURT: I'll accept that.

8 MR. ACAMPORA: Then you're going to evaluate what
9 that result was.

10 THE COURT: No. If you've got -- look --

11 MR. ACAMPORA: And I don't know how I get you to
12 evaluate what that result is.

13 THE COURT: Because I -- because you guys are not
14 dishonest.

15 MR. ACAMPORA: Thank you.

16 THE COURT: You're honest people. If a guy came
17 in and said here's what we're going to settle because I get
18 paid and we're not giving anything to anybody else and you
19 know that it's a bad deal, you're not doing it unless you
20 decided to retire and go to Florida and never practice again
21 up in New York. You're not going to do it. I know that.

22 What I don't know is when we hit that day, I want
23 to make sure we get to that day. And I think those
24 complaints or at least the complaint I saw if it were up to
25 me would be public. I understand the other side of it. You

1 shoot that gum, that bullet, it's gone. I understand it.

2 We've all been there, all right.

3 This is just me not having a dog in that fight
4 making pronouncements that this is what I would do. I don't
5 know. You got a client. You can only do what the client
6 directs you to do. But I'm telling you that Mr. Friedman as
7 Trustee needs to consider, and I think you should show him
8 this transcript along with anyone else because, period.

9 Well, that's where we are. I'll put this out
10 three months. If you got something sooner, let me know.
11 Other than that, all the monies you've collected on the
12 interim, they're not approved on a final basis. There's no
13 more money you can get because this is a holdback. The
14 money that was paid to you, I understand. That's what the
15 interim said you're entitled to that.

16 So it's 130-year long. Right now I know that.
17 The other monies you have. There's no final approval of
18 that as of today. Thank you.

19 MR. ACAMPORA: Thank you.

20 THE COURT: You got it.

21 MR. FRIEDMAN: Thank you, Your Honor.

22 THE COURT: Yes? Hold it, hold it, hold it. Are
23 you in Downing College?

24 MS. PERSICILLI: No. I'm with the Epiq Class
25 Actions.

1 THE COURT: Oh.

2 MS. PERSICHILLI: So I just want a clarification.
3 My name is Susan Persichilli. I'm with Epiq Class Action
4 Claims Solution. I was originally with GCG. Do you want us
5 to file a motion to substitute Epiq in place of Garden City?

6 THE COURT: Talk to him.

7 MS. PERSICHILLI: Talk to him.

8 THE COURT: He's the guy who wants it.

9 MS. PERSICHILLI: Okay.

10 THE COURT: It's \$26,000. I don't care that much.
11 All right. That's all unless you want to hang
12 out.

13 MR. ACAMPORA: Thank you, Your Honor.

14 (Whereupon these proceedings were concluded at
15 2:36 PM)

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

Sonya
Ledanski Hyde

Digitally signed by Sonya
Ledanski Hyde
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Date: April 4, 2019

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